

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARTHA LOPEZ DE HERNANDEZ

VS.

SAM'S EAST, INC.

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CIVIL ACTION NO.: 22-CV-388

JURY DEMANDED

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Sam's East, Inc. files this Notice of Removal pursuant to 28 U.S.C. § 1441, as follows:

Commencement and Service

1. On March 15, 2022, Plaintiff, Martha Lopez De Hernandez commenced this action against Sam's East, Inc. by filing Plaintiff's Original Petition in the 73rd District Court of Bexar County, Texas, Cause No. 2022CI04790; *Martha Lopez De Hernandez v. Sam's East, Inc.* A copy of Plaintiff's Original Petition is attached hereto as **Exhibit A**. Sam's East, Inc. received service of process and Plaintiff's Original Petition on March 23, 2022. A copy of the Return of Service and Citation is attached hereto as **Exhibit B**.

2. On April 14, 2022 Sam's East, Inc. filed its Original Answer to Plaintiff's Original Petition which is attached as **Exhibit C** and Demand for Jury Trial, attached as **Exhibit D**.

3. This notice of removal is filed within thirty days (30) of the receipt of the Plaintiff's Original Petition which discloses that this matter involves an amount in controversy exceeds \$75,000.00 and is timely filed under 28 U.S.C. § 1446(b). This notice of removal is filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(b).

Grounds for Removal

4. Sam's East, Inc. is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because this action is a civil action involving an amount in

controversy exceeding \$75,000.00 between parties with diverse citizenship. (See page 4, paragraph 17 of Plaintiff's Original Petition, wherein "...Plaintiff pleads that her damages exceed \$1,000,000.00." – Exhibit A).

Diversity of Citizenship

5. This is an action between parties with diversity of citizenship.

6. Plaintiff is a citizen of Texas.

7. Defendant Sam's East, Inc. is an Arkansas corporation with its principal place of business in Bentonville, Arkansas. Based on the forgoing, Defendant, Sam's East, Inc. is a citizen of Arkansas.

8. No change of citizenship has occurred since commencement of the state court action. Accordingly, diversity of citizenship exists among the parties.

Amount in Controversy

9. The amount in controversy exceeds the sum of \$75,000. (See page 4, paragraph 17 of Plaintiff's Original Petition, wherein "...Plaintiff pleads that her damages exceed \$1,000,000.00." – Exhibit A).

Venue

10. Venue lies in the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the Plaintiff filed the state court action in this judicial district and division.

Notice

11. Contemporaneous with the filing of this notice of removal, Defendant will give notice of this filing to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with the clerk of the state court, and will serve upon Plaintiff's counsel and all other parties' counsel of record, a notice of the filing of this notice of removal.

Jury Demand

12. Defendant, Sam's East, Inc. demanded a jury trial in the state court action.

State Court Pleadings

13. Copies of state court pleadings which are referenced within the Notice are attached to this Notice of Removal as **Exhibits A through F**. This case is being removed from the 73rd Judicial District Court of Bexar County, Texas.

Exhibits to Notice of Removal

14. The following documents are attached to this Notice as correspondingly lettered exhibits:

- A. Plaintiff's Original Petition and Request for Disclosure.
- B. Return of Service and Citation,
- C. Defendant's Original Answer to Plaintiff's Original Petition.
- D. Defendant's Demand for Jury Trial.
- E. Case Summary.
- F. List of Counsel of Record.

WHEREFORE, Defendant, Sam's East, Inc. pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the 73rd Judicial District Court of Bexar County, Texas.

Respectfully submitted,

DAW & RAY
A LIMITED LIABILITY PARTNERSHIP

/s/ James K. Floyd

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**ATTORNEYS FOR DEFENDANT,
SAM'S EAST, INC.**

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record in accordance with the FRCP on this the 21st day of April, 2022.

Paula A. Wyatt
Gavin McInnis
Louis Durbin
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ATTORNEYS FOR PLAINTIFF

Via Priority Mail

/s/ James K. Floyd

James K. Floyd